

### REMARKS

Applicants have carefully reviewed this Application in light of the Office Action mailed February 27, 2004. Applicants believe all pending claims are allowable over the references cited by the Examiner, and accordingly, Applicants respectfully request reconsideration and favorable action in this case.

#### *Examiner Interview*

On Tuesday, May 11, 2004, attorney for Applicants conducted a telephone interview with Supervisory Patent Examiner Chi Pham. Mr. Pham informed counsel that the examiner who issued the February 27, 2004 office action, Andrew Waxman, is no longer with the Patent Office and thus was not available to discuss the office action. Applicants' attorney informed Supervisory Patent Examiner Pham that the office action was not responsive to Applicants' arguments in the request for continued examination filed on January 5, 2004. Applicants' attorney also pointed out that many of Primary Examiner Waxman's comments were not supported by the references of record. For example, Primary Examiner Waxman stated that "it is irrelevant whether the reference teaches the use of the protocols and addresses internally or externally because the functionality of the uses (internal or external) is the same." (Office Action dated February 27, 2004 at p. 10).

Supervisory Patent Examiner Pham agreed that Primary Examiner Waxman's comments were conclusory and that the Patent Office should reconsider Examiner Waxman's rejection. Because Supervisory Patent Examiner Pham had to re-assign the case to another primary examiner, he asked that Applicants file a response to the office action so that the new primary examiner could re-consider the rejections.

#### *Claim Rejections—35 U.S.C. § 103*

The Examiner rejected Claims 1-5, 12-16, 23-27, 33-36, 43-46, 53, and 54-57 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,275,499 ("*Wynn*") and U.S. Patent No. 6,216,167 ("*Bare*"). This combination of references does not disclose, teach, or suggest Applicants' claimed invention as recited in these claims.

**Independent Claim 1**

Independent Claim 1, as amended, recites:

A communications device, comprising:  
a backplane;  
a plurality of backplane cards coupled to the backplane,  
each backplane card assigned a Media Access Control (MAC)  
address; and  
a backplane switch coupled to the backplane and  
operable to receive a first data packet with a first MAC address  
assigned to a backplane card and to communicate the first data  
packet to the backplane card assigned the first MAC address  
using the backplane.

*Wynn* does not disclose, teach, or suggest “a plurality of backplane cards coupled to the backplane, each backplane card assigned a Media Access Control (MAC) address” and a backplane switch “operable to receive a first data packet with a first MAC address assigned to a backplane card and to communicate the first data packet to the backplane card assigned the first MAC address using the backplane,” as recited in Claim 1. Delivery unit 10 in *Wynn* uses Ethernet for external communications. See Figure 1. However, for internal communications among its application cards 102-106, delivery unit 10 uses iPL subframes that include “a header whose destination addresses determine the card or cards that receive iPL subframes.” (Col. 9, ll. 9-10). The destination address is not a MAC address, as recited in Claim 1.

Moreover, *Wynn* could not be combined with other prior art, such as *Bare*, to teach the communications device of Claim 1. While the Ethernet protocol and MAC addresses are generally known, they are used to support communication among external network devices, as described in *Wynn* and *Bare*. *Wynn* expressly teaches the use of different types of transport for internal communications within delivery unit 10:

Delivery unit 10 uses ***two basic types of internal transport***, referred to herein as the “STS-1P transport” and the “SBB-LS transport”. A ***third type of transport*** is used between MTXI 105 and switching matrix 11a, and is discussed below in the section entitled “Network Data Transport; MTXI Transport.”

(Col. 8, ll. 54-59) (emphasis added). Thus, *Wynn* teaches away from using Ethernet, a protocol used for external communications between devices, for internal communications among application cards 102-106. Nothing in either *Wynn* or *Bare* suggests using MAC addresses to communicate data packets among backplane cards within a device. As a result,

the Examiner's proposed combination does not disclose, teach, or suggest "a plurality of backplane cards coupled to the backplane, each backplane card assigned a Media Access Control (MAC) address" and a backplane switch "operable to receive a first data packet with a first MAC address assigned to a backplane card and to communicate the first data packet to the backplane card assigned the first MAC address using the backplane," as recited in Claim 1.

For at least these reasons, independent Claim 1 is patentable over the Examiner's proposed combination of *Wynn* and *Bare*. Accordingly, Applicants respectfully request reconsideration and the allowance of Claim 1, together with those claims that depend from Claim 1.

**Independent Claim 12**

Independent Claim 12, as amended, recites:

A method of communicating data packets using a communications device including a backplane coupled to a backplane switch and a plurality of backplane cards, the method comprising:

receiving, at the backplane switch coupled to the backplane, a first data packet with a first Media Access Control (MAC) address assigned to one of the backplane cards coupled to the backplane; and

communicating the first data packet from the backplane switch to the backplane card assigned the first MAC address using the backplane.

*Wynn* and *Bare* does not disclose, teach, or suggest the method recited in Claim 12. As explained above with reference to independent Claim 1, delivery unit 10 in *Wynn* uses Ethernet for external communication but not for internal communications among its application cards 102-106. Moreover, while delivery unit 10 in *Wynn* uses Ethernet for external communications, *Wynn* teaches the use of different types of transport for internal communications within delivery unit 10. Thus, *Wynn* teaches away from using Ethernet or MAC addresses for internal communications among application cards 102-106. *Bare* also does not disclose, teach, or suggest the use of MAC addresses for internal communications to backplane cards using a backplane. For at least these reasons, independent Claim 12 is patentable over the Examiner's proposed combination of *Wynn* and *Bare*. Accordingly,

Applicants respectfully request reconsideration and the allowance of Claim 12, together with those claims that depend from Claim 12.

**Independent Claim 23**

Independent Claim 23 recites:

A backplane card assigned a first Media Access Control (MAC) address and coupled to a backplane within a communications device, the card comprising:  
an internal interface coupled to a backplane bus;  
a communication module operable to receive a first data packet from the backplane bus using the internal interface if the first data packet's destination address corresponds to the first MAC address, the communication module further operable to communicate a second data packet to another backplane card by associating the second data packet with a second MAC address assigned to the other backplane card and communicating the second data packet to the backplane bus using the internal interface.

*Wynn* and *Bare* do not disclose, teach, or suggest a backplane card “assigned a first Media Access Control (MAC) address,” and “a communication module operable to receive a first data packet from the backplane bus using the internal interface if the first data packet's destination address corresponds to the first MAC address” and “further operable to communicate a second data packet to another backplane card by associating the second data packet with a second MAC address assigned to the other backplane card and communicating the second data packet to the backplane bus using the internal interface,” as recited in Claim 23. As explained above with reference to independent Claim 1, delivery unit 10 in *Wynn* uses Ethernet for external communications but not for internal communications among its application cards 102-106. While *Bare* mentions Ethernet, it is also in the context of external communications between devices. (Col. 1, l. 35 – col. 2, l. 43). Thus, neither *Wynn* nor *Bare* disclose, teaches, or suggests the use of MAC addresses for communications to or from a backplane card using a backplane bus.

Furthermore, *Wynn* teaches away from the use of Ethernet for internal communications among its application card 102-106 because it expressly teaches the use of different types of transport for internal communications within delivery unit 10. Thus, *Wynn* could not be combined with other prior art to teach the backplane card of Claim 23.

For at least these reasons, independent Claim 23 is patentable over *Wynn* and *Bare*. Accordingly, Applicants respectfully request reconsideration and the allowance of Claim 23, together with those claims that depend from Claim 23.

**Independent Claim 33**

Independent Claim 33 recites:

A communications device, comprising:  
a backplane;  
a plurality of backplane cards coupled to the backplane;  
and  
a backplane switch coupled to the backplane, the backplane switch operable to receive a first data packet with a first network address assigned to an external network device and a second data packet with a second network address assigned to one of the backplane cards, the backplane switch further operable to use a network protocol associated with the first and second network addresses to communicate the first data packet to the external network device assigned the first network address and to communicate the second data packet to the backplane card assigned the second network address, wherein the backplane switch communicates the second data packet to the backplane card using the backplane.

*Wynn* and *Bare* do not disclose, teach, or suggest “the backplane switch further operable to use a network protocol associated with the first and second network addresses to communicate the first data packet to the external network device assigned the first network address and to communicate the second data packet to the backplane card assigned the second network address, wherein the backplane switch communicates the second data packet to the backplane card using the backplane,” as recited in Claim 33. Neither *Wynn* nor *Bare* describes a backplane switch that use the same network protocol to communicate data packets to an external device and to communicate data packets to a backplane card using a backplane. Moreover, *Wynn* teaches away because delivery unit 10 uses different types of transport for internal communications and external communications:

Delivery unit 10 uses *two basic types of internal transport*, referred to herein as the “STS-1P transport” and the “SBB-LS transport”. A *third type of transport* is used between MTXI 105 and switching matrix 11a, and is discussed below in the section entitled “Network Data Transport; MTXI Transport.”

(Col. 8, ll. 54-59) (emphasis added). For at least these reasons, independent Claim 33 is patentable over *Wynn* and *Bare*. Accordingly, Applicants respectfully request reconsideration and the allowance of Claim 33, together with those claims that depend from Claim 33.

**Independent Claim 43**

Independent Claim 43, as amended, recites:

A method of communicating data using a communications device, the communications device including a backplane coupled to a backplane switch and a plurality of backplane cards, the backplane switch coupled to at least one network device external to the communications device, the method comprising:

receiving, at the backplane switch, a first data packet with a first network address assigned to the external network device and a second data packet with a second network address assigned to one of the backplane boards;

using a network protocol associated with the first and second network addresses to communicate the first data packet from the backplane switch to the external network device assigned the first network address and to communicate the second data packet from the backplane switch to the backplane card assigned the second network address using the backplane.

*Wynn* and *Bare* do not disclose, teach, or suggest the method of claim 43. As explained above with reference to independent Claim 33, neither *Wynn* nor *Bare* describes using the same network protocol to communicate data packets from a backplane switch to an external device and to communicate data packets from a backplane switch to a backplane card using a backplane. Moreover, *Wynn* teaches away because delivery unit 10 uses different types of transport for internal communications and external communications. For at least these reasons, independent Claim 43 is patentable over *Wynn* and *Bare*. Accordingly, Applicants respectfully request reconsideration and the allowance of Claim 43, together with those claims that depend from Claim 43.

**Independent Claim 53**

Independent Claim 53 recites:

A backplane switch coupled to a backplane of a communications device, the communications device having a plurality of backplane cards coupled to the backplane, the backplane switch comprising:

a plurality of internal ports, each internal port associated with a backplane card and operable to communicate with the associated backplane card using the backplane;

at least one external port associated with a network device external to the communications device and operable to communicate with the external network device; and

a processing module coupled to the internal ports and the external port, the processing module operable to receive a first data packet with a first network address assigned to the network device, to identify the external port associated with the network device, and to communicate the first data packet to the external port for communication to the network device using a network protocol, the processing module further operable to receive a second data packet with a second network address assigned to a backplane card, to identify one of the internal ports associated with the backplane card, and to communicate the second data packet to the identified internal port for communication to the backplane card using the network protocol.

*Wynn* and *Bare* do not disclose, teach, or suggest the backplane switch of claim 53. As explained above with reference to independent Claim 33, neither *Wynn* nor *Bare* describes a processing module that uses the same network protocol to communicate data packets to an external device and to communicate data packets to a backplane card using a backplane. Moreover, *Wynn* expressly teaches away because delivery unit 10 uses different types of transport for internal communications and external communications. For at least these reasons, independent Claim 53 is patentable over *Wynn*. Accordingly, Applicants respectfully request reconsideration and the allowance of Claim 53, together with those claims that depend from Claim 53.

**Dependent Claims 2-5, 13-16, 24-27, 34-36, 44-46, and 54-57**

Dependent Claims 2-5, 13-16, 24-27, 34-36, 44-46, and 54-57 are patentable because, at a minimum, the Examiner's proposed combination of *Wynn* and *Bare* does not disclose, teach, or suggest the limitations of their respective base Claims 1, 12, 23, 33, 43, and 53.

***Claim Rejections—35 U.S.C. § 103***

The Examiner rejects Claims 6-8, 10, 17-19, 21, 28, 29, 31, 37-39, 41, 47-49, 51, and 58 under 35 U.S.C. § 103(a) as being unpatentable over *Wynn*, in view of *Bare* and further in view of U.S. Patent 6,157,649 issued to Peirce ("*Peirce*").

The Examiner rejects Claims 9 and 20 under 35 U.S.C. § 103(a) as being unpatentable over *Wynn*, in view of U.S. Patent 6,205,149 issued to Lemaire ("*Lemaire*").

The Examiner rejects Claims 30, 40, and 50 under 35 U.S.C. § 103(a) as being unpatentable over *Wynn*, in view of *Bare* and in further view of *Lemaire*.

The Examiner rejects Claims 11 and 22 under 35 U.S.C. § 103(a) as being unpatentable over *Wynn*, in view of U.S. Patent 6,426,952 issued to Francis ("*Francis*").

The Examiner rejects Claims 32, 42, 52, and 59 under 35 U.S.C. § 103(a) as being unpatentable over *Wynn*, in view of *Bare* and in further view of *Francis*.

*Peirce*, *Lemaire*, and *Fancies* fail to disclose the limitations of independent Claims 1, 12, 23, 33, 43, and 53 that, as discussed above, are missing from the Examiner's proposed combination of *Wynn* and *Bare*. As a result, because dependent Claims 6-11, 17-22, 28-32, 37-42, 47-52, and 58-59 include the limitations from their base Claims 1, 12, 23, 33, 43, and 53, dependent claims 6-11, 17-22, 28-32, 37-42, 47-52, and 58-59 are patentable over the Examiner's proposed combinations.



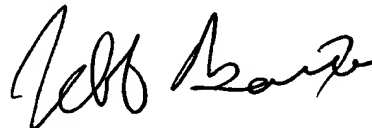
**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. In light of the Remarks set forth above, Applicants respectfully request further examination and full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, Applicants invite the Examiner to contact the undersigned attorney at the Examiner's convenience at (214) 953-6791.

Although Applicants believe that no other fees are due, Applicants authorize the Commissioner to charge any additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorneys for Applicants



Jeffery D. Baxter  
Reg. No. 45,560

**Correspondence Address:**

Barton E. Showalter at:

  X   Customer Number:

**05073**

Date: May 20, 2005